

# COUNTY OF LINCOLN

## New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair  
Dallas Draper, Vice Chair

Thomas F. Stewart, Member  
Elaine Allen, Member  
Lynn Willard, Member

### Minutes Tuesday, September 15, 2015

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 15, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:30:37 AM.

#### 2. Roll Call

##### Roll Call.

**Present:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

#### 3. Invocation

The invocation was presented by Commissioner Draper.

#### 4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary.

**Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 6. Approval of Minutes

- a. August 18, 2015 - Regular Commission Meeting

**Motion:** Approve the minutes of the August 18, 2015 Regular Meeting with syntax correction.

**Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2015
- c. Acknowledge DFA Approval of 2015 Budget Adjustment Resolution As Amended
- d. Acknowledge DFA Approval of 2015-2016 Final Budget
- e. MOU with Lincoln County Cooperative Weed Management Area (LCCWMA)

- f. Separate previously approved NMDOT CAP, COOP and School Bus Resolution into three separate resolutions (per new requirement of NMDOT)
  - 1. NMDOT CAP Resolution 2015- 11
  - 2. NMDOT COOP Resolution 2015-12
  - 3. NMDAT School Bus Resolution 2015-13
- g. Replace previously approved NMDOT Cooperative Agreement to correct non-substantive errors; no change in approved contractual amounts.

**Motion:** Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT A:** Copies of Consent Items including Resolutions 2015-11, 2015-12, and 2015-13 are attached hereto in reference thereto made a part hereof.

#### **8. NMAC Voluntary Benefits Program Presentation by Anne Sperling**

Ms. Sperling informed the New Mexico Association of Counties (NMAC) Board of Directors unanimously approved the NMAC Voluntary Benefits Program on February 14, 2015. Ms. Sperling stated the program was approved in response to a request from the counties for coverage options after the State of New Mexico's cancelled their voluntary benefits program two years ago. Ms. Sperling discussed the benefits of the NMAC pool which included higher caliber benefits at lower costs, support for County Human Resource duties, and consistent communication. Ms. Sperling stated all NMAC voluntary Benefit programs were 100% portable with no price or coverage limit changes.

Ms. Sperling stated benefit products included coverage for accidents, critical illness including cancer, universal life, long term care insurance, short term disability, legal services, and wellness services. Ms. Sperling stated employees may participate through a post-tax payroll deduction. Ms. Sperling stated rates for services were very competitive and in most cases lower than current individual policies.

Commissioner Stewart questioned if the County should consider issuing an RFP for voluntary benefits.

Ms. Sperling informed she had issued RFP's on behalf of NMAC to identify best pricing and coverage from benefit providers.

There was general discussion regarding the potential impact to current and future employee benefits.

**Motion:** Direct the Manager to further investigate the NMAC program and provide a recommendation for formal resolution in the future, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous roll call vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### **9. Lincoln County Medical Center Presentation by Al Santos**

Commissioner Willard reported after viewing a presentation during a recent Rotary Club Meeting he requested the Lincoln County Medical Center (LCMC) Administrator provide the same presentation to the Board of County Commissioners.

Al Santos, LCMC Administrator informed this particular presentation was commissioned by the Lincoln County Medical Center Foundation, a separately organized 501-C3, in combination with their fund raising committee and their consultant Lawson and Associates.

Mr. Santos presented a background of the facility over the last ten years including the recent additions of a new physical therapy clinic, a new professional office building, and updated clinic facilities. Mr. Santos reminded Presbyterian had managed the facility since 1952 and currently paid a \$1.1 million dollar lease payment to Lincoln County. Mr. Santos provided a list of accreditations and recent awards received by LCMC.

Mr. Santos discussed the complicated nature of health care finances and provided a list of current revenue sources available for hospital operations. Mr. Santos stated 94% of LCMC revenues

were generated by hospital operations with 6% derived from other revenue sources. Mr. Santos noted bad debt and charity care accounted for more than 8% of total costs. Mr. Santos stated an operating income of 2 – 5% provided opportunity for reinvestment. Mr. Santos stated the facility had 200 operating days of cash on hand. Mr. Santos discussed the LCMC renovation project and presented illustrations of planned improvements.

Mr. Santos presented a list of potential revenue sources available to the County for financing the renovation project.

Commissioner Stewart questioned the inclusion of the Indigent Health Care Gross Receipt Tax and expressed belief the County had identified other obligations for these revenues.

Mr. Santos reported a number of fund raising events had accumulated pledges of over \$250,000 towards the cost of renovation.

#### **11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS**

Sue Deavours of San Patricio objected to receiving a separate billing for solid waste services for a small trailer placed next to the main residence on the property. Ms. Deavours stated she purchased the trailer as an "extra bedroom" for her mother but acknowledged the trailer had separate electric service and septic tank.

Melissa Corpening of 102 Musketball discussed the travel on that road. Ms. Corpening cited increased traffic, increased speed, and the related dust as ongoing issues. Ms. Corpening stated the Road Superintendent informed her the speed limits on dirt roads correlated with the nearest posted speed on paved roads, but Ms. Corpening suggested the County consider other speed control measures such as speed bumps. Ms. Corpening stated she had spoken several times with Carl Palmer, Road Superintendent and also the County Manager regarding these conditions. Ms. Corpening conducted her own traffic count over a period of several days and presented her findings for review. Ms. Corpening requested the Board of Commissioners assist her in this matter.

Patsy Sanchez, a resident of Carrizozo reminded of her prior complaint about water accumulation on Highway 54. Ms. Sanchez anticipated presenting her concerns to the representatives from the NM Department of Transportation today but noted the topic was not on the agenda.

Nita Taylor, County Manager stated representatives from the Department of Transportation were scheduled to discuss Highway 54 revisions during the October Regular Meeting.

Ms. Sanchez, speaking as a Board Member for New Horizons, questioned why the New Horizon facility improvement needs were not included in the County's ICIP for this fiscal year. Ms. Sanchez reminded the facility contributed to the economy of the County with 33 employees and 17 residents. Ms. Sanchez invited the Board of County Commissioners to tour the facility.

Ms. Taylor informed improvements for New Horizons were not listed as an ICIP priority for this year but were listed on the ICIP for consideration during the FY 2016-2017 legislative cycle.

Paul Baca, Assessor informed the NMAC Assessors Affiliate was meeting in Ruidoso on October 14 and 15, 2015. Mr. Baca extended an invitation to the Board of Commissioners to attend.

Punkin Schlarb, Finance Director stated due to the recent resignation of the NMAC Finance Affiliate Chair as Vice Chair she would assume that position.

#### **9. Lincoln County Medical Center Presentation by Al Santos (continued)**

Commissioner Draper reminded the Lincoln County Medical Center renovation was listed as a priority on the County's ICIP plan which could afford opportunity for other State and Federal funding.

Mr. Santos commented Commissioner Allen was serving as the fundraising Chairwoman and she was researching additional funding options as well. Mr. Santos stated State legislators as well as the Mescalero Apache Tribe were supportive of the project.

Chair Stone questioned if the slogan of Better to Best referred to the facility or to services provided.

Mr. Santos suggested as a slogan it was primarily worded to engender philanthropic support while acknowledging the need to replace aging facilities.

Chair Stone referred to Mr. Santos' report regarding the recruitment of nine new staff members and questioned if the new staff were replacements for vacated positions or an increase to staff.

Mr. Santos stated of the nine approximately three were nurse practitioner or physician assistant replacements and there were six new providers.

Chair Stone questioned the average number of beds occupied at LCMC.

Mr. Santos reminded as a critical access hospital LCMC was limited to a defined federal maximum occupancy of twenty five beds. Mr. Santos stated designation as a critical access hospital provided a higher reimbursement rate of 101% of current Medicare reimbursement rates.

Chair Stone noted a reference to potential revenues sources based on an increase of the mill levy currently imposed at 2.6 mills to 3.0 mills. Chair Stone questioned how Mr. Santos would justify to tax payers the imposition of a full 3.0 mills.

Mr. Santos suggested additional capacity provided by renovation could result in the addition of services such as oncology infusion, kidney dialysis, or additional providers. Mr. Santos also reminded of the potential to convert existing beds to a long term care facility.

Chair Stone questioned if there was opportunity to expand services at the Capitan Clinic to five days a week. Mr. Santos expressed a commitment to recruit staffing for expanded days of service at the Capitan Clinic.

Gary Mitchell, Chair of the Board of Trustees for LCMC discussed LCMC's unique relationship which combined local support through the Board of County Commissioners, management services of Presbyterian as a private provider, and oversight by the local Board of Trustees. Mr. Mitchell stated Board of Trustee members viewed their responsibility to represent the residents of the County as their first and foremost priority. Mr. Mitchell commented on the past history of the hospital and the aging of the facility. Mr. Mitchell discussed the need to update the facility in order to maintain accreditation and requested the County move forward expediently to begin renovation. Mr. Mitchell suggest charitable contributions would increase once there was a financial commitment from the County.

#### **10. Discussion / Possible Action Regarding LCMC Renovation Funding**

Ms. Taylor reminded of prior presentations and discussions regarding the various options available to finance the LCMC renovation project. Ms. Taylor stated options considered included submission of an application to the New Mexico Finance Authority or the issuance of various types of bonds. Ms. Taylor further reminded the County retained RBC Capital Markets as an advisor.

Commissioner Stewart discussed the charts provided by RBC which illustrated the history of Lincoln County's assessed values, current tax rates, and debt capacity. Commissioner Stewart stated the Tax Rate Matrix provided illustrated the estimated annual cost to property owners. Commissioner Stewart expressed concern about the estimated increased LCMC lease payment of \$1.5 million dollars as insufficient to offset the anticipated debt service of \$1.7 million dollars. Commissioner Stewart discussed the potential implication of implementation of various Gross Receipt Tax increments and suggested the best option was to seek a voter approved bond. Commissioner Stewart opined the \$1.5 million lease payment would offset the majority of the debt service and the Commission would impose only the portion of available mills needed.

Commissioner Draper reminded until a "fair market value" as required by State Statute was established the actual lease payment was not firmly established and it could effectively be enough to offset any debt service. Commissioner Draper expressed support for seeking a General Obligation Bond but questioned seeking 2 mills versus the minimum needed as potentially detrimental to bond passage.

Eric Harrigan, RBC Capital markets clarified when issuing a bond the voters approve a specific debt amount and not a certain mill rate. Mr. Harrigan stated the tax rate was then set annually and any lease payment deposited in a debt service fund would result in the subsequent reduction of the tax rate imposed.

Commissioner Stewart discussed the possibility of using the existing accrued lease payment of \$2.2 million to either purchase property for expansion or for deposit in a debt service fund.

Commissioner Allen expressed support for submission of applications to the New Mexico Finance Authority (NMFA) and to the US Department of Agriculture (USDA). Commissioner Allen stated she was serving as Chair of the LCMC Fundraising Committee in an effort to offset the final costs to tax payers. Commissioner Allen supported exploration of every potential funding source prior to committing to issuance of a bond.

Chair Stone questioned whether there were any negative consequences to applying for a NMFA or USDA loan.

Mr. Harrigan stated an NMFA application would require the County to list the pledged revenues for repayment and as yet these were undefined. Mr. Harrigan stated NMFA would review any application submitted but from a revenue standpoint currently the County had insufficient Gross Receipts Tax increments imposed to support payment and there was a high probability NMFA would not accept the hospital lease payment as security. Mr. Harrigan stated as an alternative the hospital could consider pledging their net revenues to secure the loan. Mr. Harrigan stated the USDA application process was quite lengthy and typically the NMFA lending rate was lower. Mr. Harrigan stated the USDA application would also require identification of pledged revenues.

Chair Stone questioned if the USDA would accept a pledge of the facility itself to secure a loan.

Mr. Harrigan stated there was an option to seek a Department of Housing and Urban Development (HUD) loan by mortgaging the facility but this was a lengthy process and HUD loans typically carried a higher interest rate.

Commissioner Allen commented since any question submitted for voter approval would not go on the ballot until the 2016 General Election, the County had time to research all other options. Commissioner Allen suggested Chair Stone appoint two Commissioners to work with the Manager and Attorney to explore all options.

There was lengthy discussion about various financing options and associated revenue requirements.

**Motion:** Apply to the New Mexico Finance Authority for a \$25 million dollar loan to remodel the Lincoln County Medical Center in Ruidoso, New Mexico no later than September 24, 2015 for consideration at NMFA's October 22, 2015 meeting, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**Motion:** Apply immediately to USDA for a grant and or loan in an amount not to exceed \$25 million dollars and to apply to any other state or federal agency who may have funds available for remodel of the hospital and would grant or loan said monies to the County of Lincoln, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Stewart.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**Motion:** Authorize the Chairman to appoint two Commissioners to work with the Manager and Attorney to oversee the various application processes, utilize all resources, and report back to the Board of County Commissioners, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone appointed Commissioner Allen and Commissioner Draper.

Beverly Calaway, Treasurer requested the Board of County Commissioners consider the addition of language to any revised lease agreement in order to ensure the timely receipt of the lease payment from Presbyterian to the County of Lincoln.

## **12. Forest, Land & Natural Resources Matters:**

### **a. Smokey Bear Ranger District**

Dave Warnack, Ranger informed the Smokey Bear Ranger District had begun the process to identify a new Priority Landscape Planning Area. Ranger Warnack stated identification of a new



Planning Area included consideration of the opportunity for significant and needed improvements for multiple disciplines such as Range, Wildlife, Watershed, Recreation, Wilderness, Timber, Forest Products, Fuels and Fire. Ranger Warnack discussed other relevant criteria and presented maps of three areas within the district for consideration.

Ranger Warnack stated the Forest Plan Revision was in the Assessment Phase with continued efforts to gather public input. Ranger Warnack stated the District met with both the Upper Hondo Soil and Water Conservation District and the Carrizozo Soil and Water Conservation District as stakeholders in the revision process. Ranger Warnack anticipated additional public meetings would occur in November to gather relevant information.

Ranger Warnack stated the Forest Supervisor would issue the Final Environmental Impact Statement (FEIS) and a Draft Record of Decision on the Village of Ruidoso's Special Use Permit Application for the North Fork Eagle Creek Wells in the next few weeks. Ranger Warnack stated the 45 day Objection Period would begin once the FEIS and Draft Decision were published in the Alamogordo Daily News and the Ruidoso News.

**b. Community Forester**

Rick Merrick, Community Forester for South Central Mountain Resource Conservation and Development Council reported plans to complete a prescribed burn on Alto Mesa were pending some snowfall due to high grass growth. Mr. Merrick stated plans were in process to conduct a treatment of forty acres on Moon Mountain.

Mr. Merrick reported Spencer Baldwin of the Office of Emergency Services and Curt Temple, Planning Director participated in the recent Forest Speaker Series along with Harlan Vincent, Chief of the Ruidoso Fire Department and representatives from the insurance industry. Mr. Merrick stated topics included an explanation of ISO ratings, flood plain designations and factors which affect homeowner insurance costs.

Mr. Merrick stated he was still receiving calls from landowners about trees dying due to bark beetle infestation. Mr. Merrick stated he had also received information about a fungus affecting pinon, juniper, and some aspens in the area.

Mr. Merrick stated the Prescribed Burn Council would host an informative meeting for ranchers and landowners about the use of prescribed burns for land management on October 29, 2015.

**20. 11:30 a.m.: Inspection of the Detention Center/Lunch**

Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard and Nita Taylor, County Manager conducted an inspection of the Detention Center.

**12. Forest, Land & Natural Resources Matters: (continued)**

**c. Cibola National Forest**

Ms. Taylor reported prior meetings of the Landscape Committee were in conflict with County Commission meetings. Ms. Taylor stated the next meeting was set for October 8, 2015 and she planned to attend.

**d. Office of State Engineer-Water Issues**

Ms. Taylor reported three new notices were posted on the State Engineer's website this month:

1. Sally Canning H-4328: Permit to use an existing well as a supplemental point of diversion for diversion of 87.75 acre feet per annum of surface water of the Rio Bonito for the irrigation of 27.0 acres of land. Points of diversions and places of use are 2.35 miles from the town of Lincoln.

2. Joe Buchanan H-188: Cedar Creek Cabin Owners Association. No additional information accessible on the website.

3. James Miller H-785: Sun Valley Water and Sanitation District. No additional information accessible on the website.

**13. Update – Solid Waste Collections Request for Proposal**

Ms. Taylor stated the Request for Proposal for Solid Waste Services was issued on August 31, 2015. Ms. Taylor stated advertisements were placed in the Albuquerque Journal, the El Paso Times, and the Ruidoso News. Ms. Taylor stated the RFP was also posted on the County's

website. Ms. Taylor stated in response to these advertisements the County received notices of interest from six contractors.

Ms. Taylor stated five of the six respondents attended the mandatory pre-proposal meeting on September 14, 2015. Ms. Taylor reported parties present asked good questions such as if subcontractors were allowed. Ms. Taylor stated additional questions related to available equipment. Ms. Taylor stated Charles Fiedler of Gordon Environmental advised attendees the available equipment was at the end of usable life and suggested the County or contractor would need to purchase new equipment for services.

#### **14. Discussion / Possible Action Regarding a Violation of Lincoln County Ordinance 2009-03 Involving Mr. Arturo Rodriguez y Toussaint's Property**

Ms. Taylor stated after notice and discussion with the County Ordinance Administrator regarding noncompliance with Ordinance 2009-03, Mr. Arturo Rodriguez y Toussaint sent correspondence requesting the Board of County Commissioners consider the matter. Ms. Taylor stated despite notification of the agenda item Mr. Toussaint was not present at this meeting.

Curt Temple, Planning Director provided a history and timeline of activity initiated by a complaint from a neighboring landowner in the Western Hills Subdivision regarding refuse, solid waste and litter. Mr. Temple noted there was a previous complaint about the same property to the NM State Construction Industries Division several years ago and a recent investigation by the NM Environmental Department regarding sewage.

Ms. Taylor provided a copy of correspondence received wherein Mr. Toussaint stated he was using glass bottles, plastic, paper cartons, metallic tubes and other materials which he described as "non-contaminating" to back fill an area of approximately 300 square feet.

Mr. Temple stated on July 21, 2015 the Ordinance Administrator notified Mr. Toussaint he was in violation of the County Ordinance which prohibits a person from bringing trash onto property in the County. Mr. Temple stated on July 27, 2015 Mr. Toussaint contacted his office by telephone and advised he would work to resolve the issue but requested an extension of time due to financial hardship. Mr. Temple stated Mr. Toussaint was given 60 days to correct the violation. Mr. Temple and the Ordinance Administrator met with Mr. Toussaint in person on August 14, 2015 and it was agreed he would remove the litter from his property. Mr. Temple stated Mr. Toussaint requested permission to leave the previously buried material now covered by plaster on the property. Mr. Temple advised Mr. Toussaint would need permission from the Board of County Commissioners to leave the buried material on site.

Ms. Taylor stated it was unclear whether the property owner was requesting a Solid Waste or Refuse Disposal Permit as provided for by the Ordinance or a variance for which there was no provision in the Ordinance.

Mr. Temple stated as Mr. Toussaint was not present today the 60 day notification period would continue and he would report back for consideration of action after that period elapsed.

Commissioner Willard questioned if the State Environmental Department was currently involved.

Mr. Temple stated Mr. Toussaint claimed he had contacted the Environmental Department about his septic tank and also claimed to have a letter of approval from the department. Mr. Temple stated it appeared Mr. Toussaint was using the refuse to construct a retaining wall and if this was the case, the Village of Ruidoso required a permit as the property was within the three mile platting and planning zone.

Commissioner Stewart questioned if Village of Ruidoso Planning Department was notified.

Mr. Temple stated the Village had previously red tagged the trailer on the property.

#### **15. Manager's Report**

- 1. Building Renovation:** The Manager informed major construction efforts and costs tied to renovation of County buildings were complete. The Manager reminded the Commission had approved \$500,000 in Cap-Out Construction funding for this fiscal year to meet County needs as they arise.

- The Treasurer's Office requested funding approval to increase security for the Treasurer's offices, employees and County assets. The Treasurer's office currently lacked any security measures for the conduct of business with individuals who daily

appeared in person at the Treasurer's office. The Manager reported currently there was no door separating the public from the employees and no safety glass or partition of any type between employees collecting funds and those individuals making payments or coming in for other reasons. The Manager and Treasurer Calaway met with several CES contractors to solidify the design and estimate the cost of the project. The Manager stated low cost options were considered when possible and resulted in the lowest cost estimate of \$29,149.17. The Manager stated plans were to proceed in the next week to complete the project prior to the issuance of tax bills in October.

There was consensus from the Commissioners to proceed with the remodel of the Treasurer's office.

- **Annex Building – Upstairs:** The Manager stated since the District Attorney quarters were complete plans were to begin moving the Finance Department to the top floor. The Manager stated expenses tied to the move were limited to relocation of phones, data, computers, files, furniture, etc. The Manager stated staff would repaint in addition to verifying heating and cooling ducts and units were in working order. The Manager reminded heating and cooling were provided by the same boiler and chiller used for the District Attorney's quarters and anticipated no problems.

**2. 2016 Capital Outlay Project Application Workshops:** The Manager reported Hubert Quintana of Southern New Mexico Economic Development District (SNMEDD) was scheduled to be onsite August 30, 2015 to assist the County with the Capital Outlay Project Application. Deadline for SNMEDD to receive Capital Requests was October 22, 2015 with a subsequent deadline for SNMEDD to deliver applications packages to the Legislative Council Service in Santa Fe by January 31, 2016.

**3. Legislative Health & Human Services Committee:** The Manager reported she, Clerk Rhonda Burrows and Indigent Health Care Administrator Scott Annala attended the Legislative Health and Human Services Interim Committee Meeting held in Roswell on August 26, 2015. The meeting was well attended and provided excellent information an insight on funding of healthcare in New Mexico.

**4. Additional calendar items:**

- September 21 – 24 – Auditors in the House
- October 20<sup>th</sup> – Regular Commission Meeting
- October 21<sup>st</sup> – 23<sup>rd</sup> – Multi-line pool board training
- November 11<sup>th</sup> – Groundbreaking Ceremony – Ft. Stanton Veteran's Cemetery
- November 12<sup>th</sup> – Leadership Lincoln in County Offices for Overview of County Government
- November 17<sup>th</sup> – Regular Commission Meeting

**4. Departmental Updates:**

- a. Punkin Schlarb, Finance Director** informed the department was preparing for auditors who were scheduled for an onsite visit next week. Ms. Schlarb also discussed plans to replace the iSeries computer.
- b. Carl Palmer, Road Superintendent** provided an update on removal of trees from County right of ways in the Alto area. Mr. Palmer reported asphalt patching of roads in the Alto and Sun Valley areas were complete with the exception of the Deer Park Valley Assessment District. Mr. Palmer noted recent work involving heavy truck traffic was conducted by the Alto Lakes Water and Sanitation District resulting in road damage in the Deer Park Valley area. Mr. Palmer stated belief the Sanitation District would accept responsibility for and repair damage due to the truck traffic. Mr. Palmer reported the completion of the sealant coating for Gavilan Canyon Road was pending good weather conditions. Mr. Palmer reminded the Department of Transportation funding was available until the end of the year.
- c. Curt Temple, Planning Director** reported the Flood Plain Managers Association was conducting a Calendar Contest for grade school students to promote the "Turn Around - Don't Drown" campaign. Mr. Temple stated the County's FEMA Grant was finalized and submitted to FEMA with a revised Cost Benefit Analysis.
- d. Joe Kenmore, Office of Emergency Services Director (OES)** reported on the change in ISO ratings for various departments including declines in the Hondo Fire Department ISO rating from 8 to 6 and the Nogal Fire Department from 9 to 6. Mr.



Kenmore stated the Arabella and Bonito Fire Departments were awaiting ISO results after recent review. Mr. Kenmore reported use of the County's Mobile Command Unit at the Ruidoso Downs Track to assist with communications and traffic control during the Labor Day Weekend. Mr. Kenmore stated there were plans to utilize the Command Unit during the September Motorcycle Rally in Ruidoso.

Commissioner Draper suggested OES initiate efforts to inform the public about the improvements in County Fire Department ISO ratings.

Chair Stone requested OES monitor the roof at LCMC for potential problems in the event of heavy snowfall.

- e. **Billie Joe Guevara, Administrative Assistant/Human Resources** reported a representative from NMAC was scheduled for onsite employee trainings on customer service.

Chair Stone recommended the County provide an annual "refresher" on the policy handbook to each department.

#### **16. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims**

Scott Annala, Indigent Health Care Administrator presented the Safety Net Care Pool claims for approval. Mr. Annala processed 25 claims with 24 recommended for approval and 1 recommended for disapproval for a monthly authorization of \$27,009.36. Mr. Annala reminded the monthly average approval for Fiscal Year 2014-2015 was \$21,229. Mr. Annala stated the currently monthly average for Fiscal Year 2015-2015 was \$22,060 with a projected annual authorization of \$66,183.

Mr. Annala presented the Indigent Health Care Payments request for the month and stated he processed 5 claims with 4 claims recommended for approval and 1 for disapproval for a total payment this month of \$1,077.00. Mr. Annala stated the current monthly average for Fiscal Year 2015-2016 for Indigent Health Care claims was \$4,904.28 with a projected annual expenditure of \$58,851.32.

**Motion:** Approval and denial of the claims as indicated for Safety Net Care Pool and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT B:** Copies of the Sole Community Provider and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

#### **17. Resolution 2015-10 Designating Polling Places for the 2016 Election Cycle**

Rhonda Burrows, Clerk informed New Mexico State Statute required the Board of County Commissioners approve by resolution the designated polling places for the upcoming 2016 Primary and General Elections. Ms. Burrows stated she and her staff contacted or visited all of the proposed sites to assess statutory compliance for location and access. Ms. Burrows noted these polling locations were the same as approved and utilized for the 2014 Elections. Ms. Burrows also reminded of the change from precinct polling locations to vote center voting in 2012 and reported an overall positive response from voters after this change.

**Motion:** Adopt Resolution 2015-10, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Commissioner Draper clarified the utilization of vote centers allowed a voter to vote at any vote center location on Election Day rather than at one particular precinct.

Ms. Burrows confirmed a voter could vote at any vote center on Election Day.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT C:** Copy of Resolution 2015-10 is attached hereto in reference thereto made a part hereof.

**18. Proclamation – Citizens' Day and Constitution Week in Lincoln County**

Ms. Taylor stated Citizenship Day and Constitution Week were federally observed to recognize the adoption of the United States Constitution and those who have become US Citizens. Ms. Taylor stated these were normally observed on September 17<sup>th</sup> as the day in 1787 which delegates to the Constitutional Convention in Philadelphia signed the Constitution.

Ms. Taylor stated federal observance began in 2004 with passage of an amendment to the Omnibus spending bill. Ms. Taylor stated in addition to establishing "Constitution Day and Citizenship Day" the act mandated all publicly funded educational institutions, and all federal agencies provide educational information on the history of the American Constitution on this day.

Commissioner Willard read the proclamation which acknowledged the ratification of the United States Constitution by delegates of the Constitutional Convention on September 17, 1787. The proclamation further acknowledged the celebration of one of the longest existing written constitutions in history and proclaimed the week of September 17, 2015 through September 23, 2015 as Constitution Week in Lincoln County.

**Motion:** Approve the Proclamation for Citizenship Day and Constitution Week in Lincoln County,

**Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Commissioner Draper requested the Proclamation be forwarded to the various School Districts within Lincoln County.

**19. Approval of Request for Proposal (RFP) 15-16-001 - FEMA Related Services for County of Lincoln**

Ms. Taylor reminded the County received a FEMA award for flooding events which occurred in 2014 to repair identified road damages. Ms. Taylor stated the total identified damages were estimated at \$9,792,451.70 with cost share contributions of 75% from FEMA, 12.5% from the State of New Mexico and 12.5% from Lincoln County. Ms. Taylor stated the County could control annual costs by scheduling a limited number of road repairs each year. Ms. Taylor reminded the County had budgeted and approved \$1,000,000 of these road repairs for this fiscal year.

Ms. Taylor stated the costs associated with this RFP for engaging a contractor to manage the FEMA projects were an eligible expense of these FEMA funds. Ms. Taylor stated two proposals were received and opened on September 8, 2015. Ms. Taylor stated a committee evaluated the proposals based on three criteria including statements of qualifications and performance data; approach to the project, and the ability to finish the required services.

Ms. Taylor stated two responses were received and scored as follows:

	Points	Cost
King Industries Corporation	93.7	\$20,040
Disasters, Strategies and Ideas Group. LLC	89.4	\$22,400

**Motion:** Award RFP 15-16-001 to King Industries for \$20,040, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

Commissioner Stewart questioned who would prioritize the road repair projects.

Ms. Taylor stated County staff would identify and prioritize projects and she would present the list to the Board of Commissioners for review.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**21. Tabled- Annual Renewal MOU between the Village of Ruidoso & County of Lincoln as the Administrative Authority for Lincoln County Sheriff's Office for DWI Enforcement Activities and Reimbursement Cost**

**Motion:** Remove the item from the table, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Ms. Taylor reminded approval of the Memorandum of Understanding was tabled last month pending suggested revisions by the County Attorney including reciprocal hold harmless language and clarification of the list for Notice of Recipients.

**Motion:** Approve the Memorandum of Understanding between the Village of Ruidoso and the County of Lincoln, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

## **22. Prior Year 2014-2015 Approval of LCJJB Invoices**

Ms. Taylor reported the Lincoln County Juvenile Justice Board submitted an invoice for the second half of funding approved for Fiscal Year 2014-2015. Ms. Taylor stated the LCJJB Coordinator was informed submission of the invoice after the end of the fiscal year was out of compliance with the County process for payment. Ms. Taylor stated due to the financial status of the LCJJB she was requesting approval of the payment.

**Motion:** Approve payment to LCJJB for prior fiscal year expense, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

## **23. Rancho Ruidoso Valley Estates – Request for Road Improvement**

Mary Stanfield, prior Board Member of the Rancho Ruidoso Valley Estates Homeowners Association reminded she had provided a packet of background information for each Commissioner in June. Ms. Stanfield stated this information illustrated requests presented by the residents dating back as far back as 2003 requesting assistance from the County with road conditions.

Ms. Stanfield stated the residents of Rancho Ruidoso Valley Estates were “sandwiched” between Rainmakers, Alto Lakes, Deer Park and Ranches of Sonterra subdivisions and often felt underserved as compared to those areas.

Ms. Stanfield stated recent heavy rains had caused additional damage and requested a significant evaluation of the roads. Ms. Stanfield advised she reviewed Road Department records from 2013 to current noting most work in the area had occurred in Alpine Village and Ranches of Sonterra. Ms. Stanfield expressed belief the records illustrated a disparity issue.

Yolanda Rubio, current Board Member of Rancho Ruidoso Valley Estates Homeowners Association also requested a thorough evaluation of road conditions in the subdivision.

Ms. Taylor reminded the Commission had directed her and the Road Superintendent to develop a priority list of road conditions within the County and they were working toward that goal.

## **24. Discussion of Appointment of New Committee to Draft Revisions to the Appendix of Lincoln Historic Preservation Board**

Ms. Taylor requested consideration of suggestions received to consider revision to Appendix B of the Lincoln Historic District Ordinance. Ms. Taylor stated Appendix B consisted of criteria for new construction, guidelines for design review and materials, and requirements for signs and signage. Ms. Taylor anticipated a review and revision of Appendix B would result in easier interpretation and enforcement of Ordinance requirements.

Ms. Taylor requested approval for establishment of a committee to conduct the review of Appendix B and guidance as to potential membership.

Commissioner Allen suggested the current Chair of the Lincoln Preservation Board seek committee members willing to serve

Attorney Morel stated the current Historic Preservation Board could form a sub-committee or the Board of County Commissioners could independently appointment committee members. Attorney Morel reminded any proposed revisions to Appendix B would require approval by the Board of County Commissioners.

**Motion:** Support the formation of a subcommittee by the Lincoln Historic Preservation Board to draft revisions to Appendix B, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**25. Consideration of Appointments and Removals from Boards/ Commissioners/ Committees:**

- a. Land and Natural Resources Advisory Committee
- b. Lincoln Historic Preservation Board
- c. Planning Commission
- d. Road Review Advisory Committee
- e. Road Task Force Steering Committee – Tabled
- a. Senior Citizens Olympic Committee

**Motion:** Appoint Reginald Richey to the Lincoln Historic Preservation Board; reappoint Mary Dokianos to the Planning Commission; and reappoint James Russ to the Road Review Advisory Committee; **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**26. Discussion / Possible Action on Road Department Recommendations**

Ms. Taylor reminded during the September 8, 2015 the Commission granted broad approval to retain a consultant to review Road Department operations. Ms. Taylor reported Carl Palmer the current Road Superintendent had submitted his resignation effective September 23, 2015.

Ms. Taylor stated plans were being made to review the job description, advertise the open position and interview candidates as soon as possible. Ms. Taylor proposed in the interim the County consider contracting with a consultant as previously discussed to both oversee and review Road Department operations for a period of eight weeks. Ms. Taylor suggested an hourly rated of \$50 per hour for a period of eight weeks at an estimated total cost of \$17,000.

Commissioner Willard commented on prior commitments by the Board of County Commissioners and the Road Department to complete certain road repairs and expressed concern the development of a totally new plan might override these commitments.

Attorney Morel requested basic terms of the contract be clearly identified to develop an independent contractor or consultant agreement.

Punkin Schlarb, Finance Director reminded Mr. Palmer's resignation would necessitate a contract pay out which would require a mid-year budget adjustment.

**Motion:** Authorize the Manager and Attorney to execute a contract with an independent consultant to oversee and review Road Department operations as soon as possible for a maximum rate of \$50 per hour for eight hours per day plus gross receipts tax for eight weeks, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous vote (summary: Yes = 5).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**28. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).**

**Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph

**Capitan Iron Mine through A. Blair Dunn** – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

**Chavez, Billy** – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

**Michael Barela and Jude Renney v. Brack Rains, Lincoln County Sheriff's Deputy, Lincoln County Sheriff Robert Shepperd, and the County of Lincoln** – Tort Claim Notice received May 4, 2015 from Attorney Manuel Garcia/Hakanson Firm, alleging violation of defendants' 4<sup>th</sup> Amendment rights.

**Culp, Susan v. LCMC/Lincoln County**: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

**Reyes, Roberto** – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

**Torres, Leopoldo**: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

**Wallace, Stephen**: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

**Rodriguez, Victor** – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

**Turner, Bill** – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging exposure to unsanitary conditions at Lincoln County Detention Center.

**Prudencio, Fabian and Corinne** – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

**Yates, Barbara** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

**Davis, Jack and Rema** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

## **2014**

**Ramos, Aaron** – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

**Millerden, Kenneth and Anita** – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

**Ogden, John D** – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at Lincoln County Detention Center on March 11, 2014.

**Rounds, Christopher** – Tort Claim Notice received June 4, 2014 alleging being held in Lincoln County Detention Center without being advised of his charges.

**Herbert, Crystal** – Tort Claim Notice received June 23, 2014 from Attorney Matthew Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

**Class Action** – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration and Customs Enforcement charges.

**Atwell, Stacey** – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

**McGarry, Sean** – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

**Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at Lincoln County Detention Center.

**Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

**Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20, 2014 by Attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers



H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

**New or Updated Matters since last report = \***

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014.
2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.
3. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The case has been submitted to a panel of judges for decision and the County received Notice of Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was filed April 29, 2015.
4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.
5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.
6. *Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains, Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons received June 15, 2015. Removed to Federal Court July 7, 2015.
7. *A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015.  
*B. Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015. Mediation scheduled for Oct. 29, 2015.

**Tort Claims Notices Received or Threatened**

**2015**

**Cherry, Doris** – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

**McDaniel, Carl** – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

**UNM Hospital-Prins, Chad** – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

**Sehorn, Sean M.** – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

**Lavin, Erica L. and Rathgeber, Jack** – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

**Hanley, Constance** – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

destroyed items in a home.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8<sup>th</sup> Amendment Rights.

**Ryen, Allen** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**McMurray, Cody** – Tort Claim Notice received Nov. 6, 2014 by Attorney W. Chris Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Long, Cameron** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

**McClarnon, Brian** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

**Diana Martwick, 12<sup>th</sup> Judicial District Attorney** – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

**Inmate Group** – Tort Claim Notice received Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

## **2013**

**Harrisburg Documents**– Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

**Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous roll call vote (**summary: Yes = 5**).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 2:55:58 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:09:01 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

## **26. Discussion / Possible Action on Road Department Recommendations (continued)**

Ms. Taylor reminded of a prior discussion regarding the job description of the Road Department Superintendent as to whether the position was best defined as a salaried or non-salaried position and whether it was best to consider the position as "at will" or "not at will". Ms. Taylor stated the position was currently a salaried "not at will" position.

**Motion:** Change the Road Department Superintendent position to a "non-classified, at will employee" pending research by the County Attorney, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (**summary: Yes = 5**).

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

## **27. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance**

No action was taken.

## **29. Signing of Official Documents**

## **30. Next meetings:**

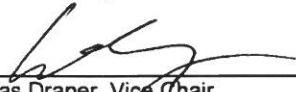
October 20, 2015, Regular Commission Meeting

## **31. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 4:12:16 PM.

County of Lincoln  
Board of County Commissioners

  
Preston Stone, Chair

  
Dallas Draper, Vice Chair

  
Elaine Allen, Member

  
Thomas F Stewart, Member

  
F Lynn Willard, Member

ATTEST:

  
Rhonda Burrows, County Clerk

October 20, 2015  
Date Approved

